

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 297 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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B B GOSAI

Versus

SECRETARY

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Appearance:

MR DS VASAVADA for Petitioners

MR MD PANDYA for Respondent

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 01/11/1999

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. The petitioner, an Engineer of the Gujarat Electricity Board, by this special civil application is praying for direction to the respondent- Board to give him the benefit of higher pay scale w.e.f. 20th September, 1974. He was given this benefit from 1-1-1979.

3. On the direction of this court, his case was reviewed but the earlier decision taken was confirmed. On the record of this special civil application and particularly from annexure 'D' filed by the Board along with the reply to the special civil application, I find that there are adverse remarks in the Annual Appraisal Performance Report of the petitioner for the year 1968-69, which reads as under:

"Found leaving his place of duty irrespective of warnings. In work he is normal but his relations with his superior are not upto the mark."

4. There is one more adversity also which has not been mentioned by the Board i.e. his body is on plant but mind is not there. These adverse remarks were communicated to the petitioner vide memo dated 21-5-1969. He filed representation/appeal against those adverse remarks which came to be decided under the order dated 25-1-1985 and those remarks were ordered to be maintained. In the presence of these remarks, I do not find any illegality in the action of the respondent not to grant him the benefit of higher pay scale from 20th September, 1974. These remarks are not challenged by the petitioner in this special civil application.

5. Learned counsel for the petitioner contended that on the basis of these adverse remarks denial of benefit of higher pay scale to the petitioner is wholly arbitrary but I do not find any substance in this contention.

6. Higher pay scale benefit is akin to the benefit of promotion and even if the criteria is seniority-cum-merit unless the service record of the officer is clean, these benefits can not be given to him.

7. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this court stands vacated. No order as to costs.

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